IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

CRL.A.No. 765 of 2000()

AGAINST THE ORDER DATED 22/08/1998 IN SC.196/1996 IN MC.10/1997 of SESSIONS COURT, MANJERI

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APPELLANT:

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1. K.SUBBU, S/O.KARUTHAKANNATHEVAR, KARUKATTAMPATTI, USILAMPATTI, MUNICIPALITY AND TALUK, MADURAI DIST.

2. P.MUTHUKANNAN, S/O.PUNNATHEVAR, -DO- -DO-.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS:

(*)1. THE SESSIONS JUDGE, MANJERI, MALAPPURAM.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

(*) NAME OF THE FIRST RESPONDENT IS REMOVED FROM THE PARTY ARRAY AS PER ORDER IN CRL.M.P.5269/2000, DATED 09/11/2000

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NOS.5507/2000, 3327/2001 & 4080/2001 IN CRL.A.NO.765/2000

CLOSED.

SD/-K.R.UDAYABHANU, JUDGE

03/07/2007

K.R.UDAYABHANU, J.

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Crl.A.No.765 of 2000(D)

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Dated this the 3rd day of July, 2007

J U D G M E N T

The appellants are the sureties to the accused in Sessions Case No.196/1996, who have been ordered to pay a penalty of Rs.20,000/- each, vide, the order in M.C.No.10/1997. The order in the matter was pronounced on 22/08/1998. It is submitted that they had not received any notice in this regard issued by the court below and, in fact, the accused had died on 27/08/1998. The counsel has also produced the death certificate of the accused.

The court had concluded that the notice was served properly on the basis of PW.1, the Police Constable, who was authorised to serve notice, but going by the report, Exts.C1 and C2, it appears that the notice has not been served. In this circumstance, the order of the court below cannot be upheld. The same is set aside. The appeal is allowed.

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.A.No.765 of 2000(D)

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J U D G M E N T

3rd July, 2007